IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2760 OF 2006

SHASHIKANT PAWAR .. PETITIONER

Versus

THE CHIEF SECRETARY & ORS. .. RESPONDENTS

Mr. S. A. Sawant for petitioner

Ms. A.S. Pai, APP

CORAM:-SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.

DATED:- 15/01/2007

P.C.

. President of Akhil Bharatiya Maratha Mahasang, a registered organisation has filed this petition for a direction prohibiting the respondents from taking any preventive action under Section 144 of the Criminal Procedure Code ("Code" for short) or any preventive action thereby restraining the petitioner and other organizations from holding meetings where Dr. Shalinitai Patil Member of Legislative Assembly or any other persons are likely to deliver speeches.

2. Exhibit-A annexed to this petition is the order issued under Section 144 of the Code by the Collector Sindhudurg. We find from this order that the restriction for holding meeting was for the period from 25/11/06 to 28/11/06. This period having expired, in our opinion, the present petition has become infructuous and on that count it cannot be entertained. Besides, in our opinion petition filed by a registered organisation making such a prayer would also not be maintainable.

3. Our attention is drawn by Mr. Borulkar, the learned Public Prosecutor to Section 144 (5) of the Code which reads thus;

> "144(5). Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any magistrate subordinate to whom or by his predecessor-in-office."

. A bare reading of this Section indicates that a Magistrate who issues an order under Section 144 of the Code on the application of any person

aggrieved, rescind or alter it. Therefore, alternative remedy is available to any person who is aggrieved by such an order. We find substance in this submission also. Needless to say that, if any order under Section 144 of the Code is passed, aggrieved person will be entitled to adopt such remedy as is provided in law.

4. The petition is disposed of in the aforestated terms.

JUDGE

JUDGE